



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

A-570-967; C-570-968

Aluminum Extrusions from the People's Republic of China: Notice of Court Decision Not in Harmony With Final Scope Ruling and Notice of Amended Final Scope Ruling Pursuant to Court Decision

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On July 18, 2016, the United States Court of International Trade (CIT) sustained the Department of Commerce's (Department) final results of redetermination in which the Department determined, under protest, that certain kitchen appliance door handles are not covered by the scope of the antidumping (AD) and countervailing duty (CVD) orders on aluminum extrusions from the People's Republic of China.

DATES: *Effective Date:* July 28, 2016.

FOR FURTHER INFORMATION CONTACT: James Terpstra, AD/CVD Operations, Office III, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: 202-482-3965.

SUPPLEMENTARY INFORMATION:

Background

On June 21, 2013, the Department issued a final scope ruling in which it determined that three types of kitchen appliance door handles (Types A, B, and C) imported by Meridian are within the scope of the *Orders*¹ and did not meet the scope exclusions for “finished

¹ See *Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order*, 76 FR 30650 (May 26, 2011) and *Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order*, 76 FR 30653 (May 26, 2011) (the *Orders*).

merchandise” and “finished goods kits.”² Meridian challenged the Department’s final scope ruling at the CIT.

On December 7, 2015, the CIT issued an opinion and order in *Meridian I* sustaining the Department’s findings in the Kitchen Appliance Door Handles Scope Ruling that Meridian’s Type A door handles (consisting of a single piece of aluminum extrusion) and Type C door handles (consisting of a single piece of aluminum extrusion packaged as a “kit” with a tool and an instruction manual) are within the scope of the *Orders* based on a plain reading of the scope language.³ The Court, however, remanded the Department’s determination that Type B door handles (consisting of a single piece of aluminum extrusion with two plastic end caps fastened on with screws) are within the scope of the *Orders*. The Court found the Department’s determination to be unsupported by the general scope language.⁴ The Court further found that, assuming *arguendo* that Meridian’s Type B door handles were covered by the scope language, the Department erred in finding that the products did not satisfy the “finished merchandise” exclusion.⁵

On March 23, 2016, the Department issued its Final Results of Redetermination, in which it found, respectfully, under protest, that Meridian’s Type B door handles are not covered by the scope of the *Orders* because the general scope language did not cover such products. As a result, the Department did not consider whether Meridian’s Type B door handles were subject to the exclusion for “finished merchandise.”⁶

² See “Final Scope Ruling on Meridian Kitchen Appliance Door Handles,” dated June 21, 2013 (Kitchen Appliance Door Handles Scope Ruling) at 12-15.

³ See *Meridian Products LLC v. United States*, Court No. 13-00246, Slip Op. 15-135 (*Meridian I*) at 6-9.

⁴ *Id.*, at 10-13.

⁵ *Id.*, at 13-16.

⁶ See Final Results of Redetermination Pursuant to Court Remand, *Meridian Products, LLC v. United States*, Court No. 13-00246, Slip Op. 15-135 (CIT December 7, 2015) (Final Results of Redetermination).

On July 18, 2016, in *Meridian II* the Court sustained the Department's finding in the Final Results of Redetermination that Meridian's Type B door handles are not covered by the scope of the *Orders*.⁷ Consistent with the decision of the United States Court of Appeals for the Federal Circuit (Federal Circuit) in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (CAFC 2010) (*Diamond Sawblades*), the Department is notifying the public that the final judgment in this case is not in harmony with the Department's final scope ruling and is amending the final scope ruling to find that certain kitchen appliance door handles imported by Meridian LLC (Meridian) are not covered by the scope of the AD and CVD orders on aluminum extrusions from the People's Republic of China.

Timken Notice

In its decision in *Timken*, 893 F.2d at 341, as clarified by *Diamond Sawblades*, the Federal Circuit held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not "in harmony" with a Department determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's July 18, 2016, judgment in *Meridian II* sustaining the Department's finding in the Final Results of Redetermination that Meridian's Type B door handles are not covered by the scope of the *Orders* constitutes a final decision of the Court that is not in harmony with the Kitchen Appliance Door Handles Scope Ruling. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, the Department will continue the suspension of liquidation of Meridian's Type B door handles at issue pending expiration of the period of appeal or, if appealed, pending a final and conclusive court decision.

⁷ See *Meridian Products, LLC v. United States*, Court No. 13-00246, Slip Op. 16-71 (*Meridian II*) at 11.

Amended Final Scope Ruling

Because there is now a final court decision with respect to the Kitchen Appliance Door Handles Scope Ruling, the Department amends its final scope ruling and finds that the scope of the *Orders* does not cover Meridian's Type B door handles. The Department will instruct U.S. Customs and Border Protection (CBP) that the cash deposit rate will be zero percent for Meridian's Type B door handles. In the event the CIT's ruling is not appealed, or if appealed, upheld by the Federal Circuit, the Department will instruct CBP to liquidate entries of Meridian's Type B door handles without regard to antidumping and/or countervailing duties, and to lift suspension of liquidation of such entries.

This notice is issued and published in accordance with section 516A(c)(1) of the Act.

Dated: August 2, 2016.

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

[FR Doc. 2016-18788 Filed: 8/5/2016 8:45 am; Publication Date: 8/8/2016]